

REMARKS

1. Favorable reconsideration and allowance of the claims of the present application, is respectfully requested.
2. Claims 12-23 are pending in this application.
3. In an Office Action dated February 25, 2003, the Examiner rejected claims 12 - 29 under 35 U.S. C. § 112, first paragraph as failing to provide an adequate written description for allegedly failing to describe the essential structural features that comprise the semi-lenses. The Examiner also rejected claims 12-29 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention in that the term "semi-lenses" is allegedly unclear. Applicant respectfully traverses both of these rejections.
4. Applicant respectfully submits that the specification adequately describes the essential structural features that comprise the semi-lenses and therefore, the grounds for rejecting the claims under 35 U.S.C. § 112, first paragraph should be withdrawn. "The examiner has the initial burden of presenting evidence or reasons why a person of skill in the art would not recognize that the written description of the invention provides support for the claims." *See* MPEP 2163. The Examiner has simply not met this burden. No evidence or reasons why a person of skill in the art would not recognize that the written description provided support for the claims has been presented by the Examiner. Merely stating so does not meet the Examiner's burden. Further, there is a strong presumption

that an adequate written description of the claimed invention is present in the specification as filed. *See Wertheim*, 541 F.2d 262. Here, the applicant has provided support in the specification for the claimed semi-lenses. Elements 2 and 3 are described in the specification as the claimed semi-lenses and are further depicted in Figure 1.

Semi-lenses are commonly known in the art and are not specialized. The only structure to the semi-lenses are the lenses themselves. That is, as the definition of semi-lens is commonly known. (See remarks in paragraph 6. below regarding the definition of a semi-lens). If a structure is known in the art each of its individual components need not be specifically described to sufficiently describe the invention. What is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d at 1384.

5. Additionally, where the semi-lens is further described as a polycapillary semi-lens, that semi-lens retains the well-known definition of a semi-lens, but also includes polycapillaries. Polycapillary semi-lenses are also well-known in the art as set forth in the background of the invention. Further examples of how polycapillary semi-lenses are well-known in the art can be found by reference to the publication provided in the IDS applicant submitted to the Examiner on December 9, 2002, and as shown in the attached print out of a web page from the Institut fur Geratebau in Berlin, Germany. *See Vincze, L.*, "Suitability of Polycapillary Optics for Focusing of Monochromatic Synchrotron Radiation as Used in Trace Level Micro-XANES Measurements, *J. Anal. At. Spectrom.*, vol. 17, pp. 177-182; *see* <http://ifg-adlershof.de/formulare/minisemilens.html>.

Accordingly, applicant respectfully submits that the structure of the semi-lenses is described in the application and that no essential structural features are omitted.

6. Applicant further submits that the claims are not indefinite because the term “semi-lenses” is clear and therefore, the grounds for rejecting the claims under 35 U.S.C. § 112, first paragraph should be withdrawn. As previously set forth in applicant’s Reply To Office Action submitted on December 9, 2002, a semi-lens is known to one of ordinary skill in the art as a half-lens. As is further known to one of ordinary skill in the art, both a semi-lens and a half-lens are defined as “the half of a lens divided along a plane passing through its axis.” Copies of three online dictionaries setting forth this definition of a semi-lens are provide as attachments. *See* Dictionary.com identifying as its source, Webster’s Revised Unabridged Dictionary,[©] 1996, 1998 MICRA, Inc.; Thesaurusdictionary.com; and BrainyDictionary.com. Clearly, the term semi-lens is common and confirmed by way of these three dictionary definitions. Further, as shown in Figure 1 of the application, half of the lens is on one side and half of the lens is on the other side. This definition is again confirmed by reference to the publication by Vincze submitted to the Examiner in an IDS submitted on December 9, 2002, wherein polycapillary half-lenses are further described. Figures 1 and 2 of the publication show a polycapillary half-lens.


7. Consequently, the Examiner is respectfully requested to withdraw the rejections of Claims 12-29 under 35 U.S.C. §112, first paragraph and second paragraph and withdraw the finality of the Office Action dated February 25, 2003. In view of the

remarks and evidence, favorable consideration and allowance of all of the claims now present in the application are respectfully requested.

8. Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

9. The Commissioner is authorized to charge all required fees including any extension fees due, any additional fees or credit any overpayment to Deposit Account 06-0923. Enclosed is a duplicate copy of this sheet.

Respectfully submitted for Applicant,

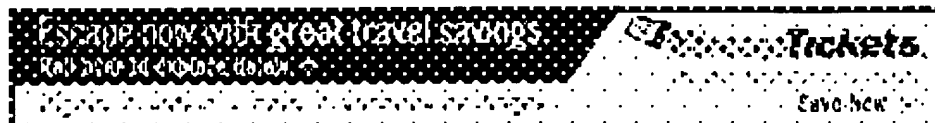


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Definition of: Semilens

Semilens

(n.) The half of a lens divided along a plane passing through its axis.

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Operand

(n.) The symbol, quantity, or thing upon which a mathematical operation is performed; -- called also faciend.

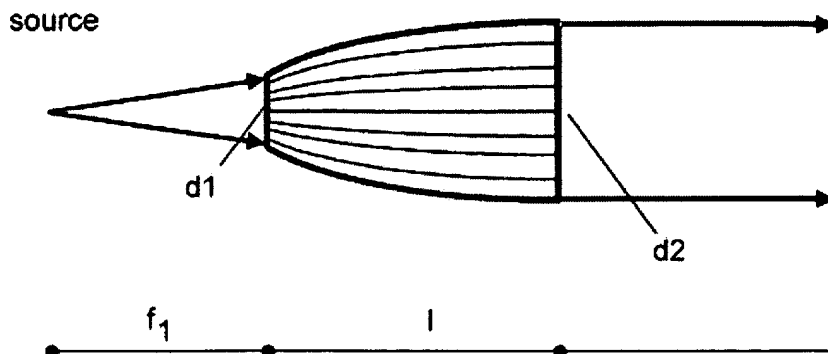
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